

Serial No. 09/877,974  
Attorney Docket No.: SEDN/PRED008  
Page 18 of 25

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SEP 01 2006

### REMARKS

This response is intended as a full and complete response to the Notice of Non-Compliant Amendment mailed on August 10, 2006.

Claims 1-99 are pending in the application of which claims 1-69 are rejected and claims 70-99 are withdrawn.

Applicants traverse all of the rejections in the Office Action mailed January 24, 2006 and respectfully request reconsideration and passage of the claims to allowance for the following reasons.

#### I. REJECTIONS UNDER 35 U.S.C. 102

The Office Action rejected claims 22-25, 28, 32-37, 42, 45-47, 50, 52, 54, 56, 57, 59, 64 and 67-69 under 35 U.S.C. §102(a/e) as being anticipated by U.S. Patent No. 6,088,722 to Herz et al. ("Herz"). The Applicants respectfully traverse the rejection.

To anticipate a claim, the reference must teach every element of the claim. Herz fails to teach every element of each claim for at least the following reasons. For example, Herz fails to teach developing a profile of a user based only on the predetermined profiles of the iTV programs accessed by the user or based only on the iTV interactions. Specifically, Applicants' independent claim 22 recites "A method of profiling iTV users, comprising: providing profiles on a plurality of iTV programs; monitoring which of said plurality of iTV programs a user accesses; and developing a profile of the user based only on the profiles of the iTV programs accessed by the user." Independent claims 50, 57, 59, 64 and 67 contain similar limitations.

In contrast, Herz teaches that user profiles are developed in a two step process. Herz first requires that an initial customer profile be created by either questionnaires completed by users, questionnaires completed by experts or analyzing the content of a program from word frequency. (See Herz, col. 12, l. 7 – col. 13, l. 52.) Subsequently, Herz teaches that the user profiles are then adjusted with further user input or monitoring the programming viewed by the customer. (See Herz, col. 14, ll. 1-23.)

Serial No. 09/877,974  
Attorney Docket No.: SEDN/PRED008  
Page 19 of 25

Herz fails to disclose each element of claim 22, because Herz fails to teach developing a profile of a user based only on the profiles of the iTV programs accessed by the user. Unlike the Applicants' invention, Herz teaches a more complex and complicated method of developing a profile of the user because Herz requires an initial customer profile by compiling information from television programs or directly from the users via questionnaires, then the additional step of adjusting these profiles.

Consequently, the Applicants' invention teaches a more efficient and simpler method because the user profiles are developed based only on the profiles of the iTV programs accessed by the user. In other words, unlike Herz where customer profiles are created by establishing an initial customer profile and then adjusting the customer profiles, the Applicants' invention teaches a more dynamic process of "developing a profile of the user based only on the profiles of the iTV programs accessed by the user" that does not require the creation of an initial customer profile. Therefore, claim 22 is patentable over Herz under §102.

Independent claims 50, 57, 59, 64 and 67 contain similar limitations and are patentable over Herz under §102 for at least the same reasons that claim 22 is patentable over Herz under §102. Claims 23-25, 28, 32-37, 42, 45-47, 52, 54, 56 and 68 depend, directly or indirectly, from claims 22, 50, 67, respectively, and, thus, inherit the patentable subject matter of claims 22, 50 and 67, while adding additional elements. Therefore, claims 23-25, 28, 32-37, 42, 45-47, 52, 54, 56 and 68 are also patentable over Herz under §102.

Furthermore, Herz fails to teach developing a profile of a user based only on the iTV interactions. Specifically, Applicants' independent claim 69 recites "A program module for a set-top box, comprising: a sniffer for gathering user-requested content information from iTV interactions of a user; a profiler for correlating content-associated profile information from a rating service with the user-requested content information and for developing a profile of the user based only on the iTV interactions; and a matcher for recommending content to the user based on the profile of the user."

In contrast as discussed above, Herz teaches that user profiles are developed in a two step process. Herz first requires that an initial customer profile be created by either questionnaires completed by users, questionnaires completed by experts or

Serial No. 09/877,974  
Attorney Docket No.: SEDN/PRED008  
Page 20 of 25

analyzing the content of a program from word frequency. (See Herz, col. 12, l. 7 – col. 13, l. 52.) Subsequently, Herz teaches that the user profiles are then adjusted with further user input or monitoring the programming viewed by the customer. (See Herz, col. 14, ll. 1-23.)

Herz fails to disclose each element of claim 69, because Herz fails to teach developing a profile of a user based only on the iTV interactions. Unlike the Applicants' invention, Herz teaches a more complex and complicated method of developing a profile of the user because Herz requires an initial customer profile by compiling information from television programs or directly from the users via questionnaires, then the additional step of adjusting these profiles.

Consequently, the Applicants' invention teaches a more efficient and simpler method because the user profiles are developed based only on the iTV interactions. In other words, unlike Herz where customer profiles are created by establishing an initial customer profile and then adjusting the customer profiles, the Applicants' invention teaches a more dynamic process of "developing a profile of the user based only on the iTV interactions" that does not require an initial customer profile. Therefore, claim 69 is patentable over Herz under §102.

## II. REJECTIONS UNDER 35 U.S.C. 103

### A. Claims 1-4, 9-11, 17-19, 30, 31 and 51

The Office Action rejected claims 1-4, 9-11, 17, 18, 30, 31 and 51 under 35 U.S.C. §103(a) as being unpatentable over Herz in view of U.S. Patent No. 5,659,350 to Hendricks et al. ("Hendricks"). The Applicants respectfully traverse the rejection.

To establish a *prima facie* case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations. See MPEP §2143.

The Office Action failed to establish a *prima facie* case of obviousness, because the combination of Herz and Hendricks fails to teach or suggest all the claim elements

Serial No. 09/877,974  
Attorney Docket No.: SEDN/PRED008  
Page 21 of 25

for at least the following reasons. For example, the combination fails to teach developing a profile of a user based only on the profiles of the iTV programs accessed by the user. Specifically, Applicants' independent claim 1 recites "A method for profiling iTV user, comprising: gathering user-requested content information from iTV interactions; correlating content-associated profile information from a rating service with the user-requested content information; and developing a profile of a user based on developing a profile of a user based only on the iTV interactions."

In contrast as discussed above, Herz teaches that user profiles are developed in a two step process. Herz first requires that an initial customer profile be created by either questionnaires completed by users, questionnaires completed by experts or analyzing the content of a program from word frequency. (See Herz, col. 12, l. 7 – col. 13, l. 52.) Subsequently, Herz teaches that the user profiles are then adjusted with further user input or monitoring the programming viewed by the customer. (See Herz, col. 14, ll. 1-23.)

Herz fails to disclose each element of claim 1, because Herz fails to teach developing a profile of a user based only on the iTV interactions. Unlike the Applicants' invention, Herz teaches a more complex and complicated method of developing a profile of the user because Herz requires an initial customer profile by compiling information from television programs or directly from the users via questionnaires, then the additional step of adjusting these profiles.

Consequently, the Applicants' invention teaches a more efficient and simpler method because the user profiles are developed based only on the iTV interactions. In other words, unlike Herz where customer profiles are created by establishing an initial customer profile and then adjusting the customer profiles, the Applicants' invention teaches a more dynamic process of "developing a profile of the user based only on the iTV interactions" that does not require an initial customer profile. Furthermore, Hendricks fails to bridge the substantial gap between the Herz reference and Applicants' invention. In particular, Hendricks fails to teach developing a profile of a user based only on the iTV interactions. Therefore, claim 1 is patentable over the combination of Herz and Hendricks under §103.

Serial No. 09/877,974  
Attorney Docket No.: SEDN/PRED008  
Page 22 of 25

Independent claims 17, 18 and 19 contain similar limitations and are patentable over Herz and Hendricks under §103 for at least the same reasons that claim 1 is patentable over Herz and Hendricks under §103. Claims 2-4 and 9-11 depend, directly or indirectly, from claim 1 and, thus, inherit the patentable subject matter of claim 1, while adding additional elements. Therefore, claims 2-4 and 9-11 are also patentable over the combination of Herz and Hendricks under §103.

Furthermore, as discussed above, independent claims 22 and 50 are patentable over Herz. Claims 30, 31 and 51 depend, directly or indirectly, from claims 22 and 50, respectively, and thus, inherit the patentable subject matter of claim 1, while adding additional elements. Therefore, claims 30, 31 and 51 are also patentable over the combination of Herz and Hendricks under § 103.

B. Claims 5-8

The Office Action rejected claims 5-8 under 35 U.S.C. §103(a) as being unpatentable over Herz and Hendricks in view of U.S. Patent No. 5,223,924 to Strubbe ("Strubbe"). The Applicants respectfully traverse the rejection.

Claims 5-8 depend, directly or indirectly, from claim 1 and, thus inherit the patentable subject matter of claim 1, while adding additional elements. Therefore, claims 5-8 are also patentable over Herz under §103. Furthermore, because Strubbe fails to teach developing a profile of a user based only on the profiles of the iTV programs accessed by the user, claims 5-8 are also patentable over the combination of Herz and Strubbe under §103.

C. Claims 12-16

The Office Action rejected claims 12-16 under 35 U.S.C. §103(a) as being unpatentable over Herz in view of U.S. Patent No. 5,848,396 to Gerace ("Gerace"). The Applicants respectfully traverse the rejection.

Claims 12-16 depend, directly or indirectly, from claim 1 and, thus inherits the patentable subject matter of claim 1, while adding additional elements. Therefore, claims 12-16 are also patentable over Herz under §103. Furthermore, because Gerace fails to teach developing a profile of a user based only on the profiles of the iTV

Serial No. 09/877,974  
Attorney Docket No.: SEDN/PRED008  
Page 23 of 25

programs accessed by the user, claims 12-16 are also patentable over the combination of Herz and Gerace under §103.

D. Claim 20

The Office Action rejected claim 20 under 35 U.S.C. §103(a) as being unpatentable over Herz and Hendricks in view of Strubbe. The Applicants respectfully traverse the rejection.

Claim 20 depends from claim 19 and, thus inherits the patentable subject matter of claim 19, while adding additional elements. Therefore, claim 20 is patentable over Herz and Hendricks under §103. Furthermore, because Strubbe fails to teach developing a profile of a user based only on the profiles of the iTV programs accessed by the user, claim 20 is also patentable over the combination of Herz, Hendricks, and Strubbe under §103.

E. Claims 26, 27, 29, 41, 43, 44, 49, 53, 55, 58, 60-62

The Office Action rejected claims 26, 27, 29, 41, 43, 44, 49, 53, 55, 58, 60-62, 65, and 66 under 35 U.S.C. §103(a) as being unpatentable over Herz. The Applicants respectfully traverse the rejection

Claims 26, 27, 29, 41, 43, 44, 49 depend from claim 22 and, thus inherit the patentable subject matter of claim 22, while adding additional elements. Therefore, claims 26, 27, 29, 41, 43, 44, and 49 are patentable over Herz under §102 and §103.

Claims 53 and 55 depend from claim 50 and, thus inherit the patentable subject matter of claim 50, while adding additional elements. Therefore, claims 53 and 55 are patentable over Herz under §102 and §103.

Claim 58 depends from claim 57 and, thus, inherits the patentable subject matter of claim 57, while adding additional elements. Therefore, claim 58 is also patentable over Herz under §102 and §103.

Claim 60 recites "developing a profile of the user based only on predetermined profile data of iTV programs accessed by the user." For the same reasons given above with respect to claim 22, claim 60 is patentable over Herz under §102 and §103.

Serial No. 09/877,974  
Attorney Docket No.: SEDN/PRED008  
Page 24 of 25

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Claims 61 and 62 depend from claim 60 and, thus inherit the patentable subject matter of claim 60, while adding additional elements. Therefore, claims 61 and 62 are patentable over Herz under §102 and §103.

Claims 65 and 66 depend from claim 64 and, thus inherit the patentable subject matter of claim 64, while adding additional elements. Therefore, claims 65 and 66 are patentable over Herz under §102 and §103.

F. Claims 38-40

The Office Action rejected claims 38-40 and 48 under 35 U.S.C. §103(a) as being unpatentable over Herz in view of U.S. Patent No. 6,005,597 to Barrett et al. ("Barrett"). The Applicants respectfully traverse the rejection.

Claims 38-40 and 48 depend from claim 22 and, thus inherit the patentable subject matter of claim 22, while adding additional elements. Therefore, claims 38-40 and 48 are patentable over Herz under §102 and §103. Furthermore, because Barrett fails to teach developing a profile of a user based only on the profiles of the iTV programs accessed by the user, claims 38-40 and 48 are also patentable over the combination of Herz and Barrett under §103.

F. Claim 63

The Office Action rejected claim 63 under 35 U.S.C. §103(a) as being unpatentable over Herz in view of U.S. Patent No. 6,708,335 to Ozer et al. ("Ozer"). The Applicants respectfully traverse the rejection.

Claim 63 depends from claim 60 and, thus inherits the patentable subject matter of claim 60, while adding additional elements. Therefore, claim 63 is patentable over Herz under §102 and §103. Furthermore, because Ozer fails to teach developing a profile of a user based only on the profiles of the iTV programs accessed by the user, claim 63 is also patentable over the combination of Herz and Ozer under §103.

Serial No. 09/877,974  
Attorney Docket No.: SEDN/PRED008  
Page 25 of 25

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SEP 01 2006

**CONCLUSION**

Applicants believe that the claims are in condition for allowance. Accordingly, reconsideration and allowance are respectfully solicited.

If, however, the Examiner believes that there are any unresolved issues requiring adverse final action in any of the claims now pending in the application, it is requested that the Examiner telephone Eamon J. Wall or Jimmy Kim at (732) 530-9404 so that appropriate arrangements can be made for resolving such issues as expeditiously as possible.

Respectfully submitted,

Dated: 8/31/06

  
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